

REMARKS

Claims 1-212 are pending in the application. Claims 32-67 and 130-212 have been withdrawn from this application as a result of an earlier restriction requirement. Applicant submits that no new matter has been added. Applicant respectfully requests reconsideration of the above-identified application, in view of the following remarks.

Claim Rejection – 35 U.S.C. § 102(b)

Claims 1, 2, 6-17, 19, 24, 25, 27-31, 68, 69, 72, 76-87, 91, 92, 94-100, 104-115, 117, 122, 123 and 125-129 have been rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Foladare et al. (US005819160A).

Independent claim 1 recites, *inter alia*:

A method for coordinating supplemental data transmissions with broadcast data transmitted by a plurality of broadcasters, the method comprising:
receiving schedule information for each of a plurality of broadcasters, the schedule information including a schedule of broadcast data to be transmitted by each broadcaster at predetermined times;
identifying, from the received schedule information, broadcast data for transmission by a first broadcaster at a predetermined time;
determining supplemental digital data to be presented to listeners of the broadcast data on a digital data receiver; and
transmitting at least a portion of the supplemental digital data to the first broadcaster prior to the predetermined time.

Applicant respectfully submits that Foladare does not teach, disclose or suggest the elements of the claimed invention. More specifically, Applicant submits that Foladare does not disclose at least the elements of “determining supplemental digital data to be presented to listeners of the broadcast on a digital data receiver,” and “transmitting at least a portion of the supplemental digital data to the first broadcaster prior to the predetermined time,” as recited in independent claims 1, 29-31 and 127-129. The Foladare reference merely discloses a subscription system for listeners of digital radio devices and providers of digital audio content.

This is quite distinct from the pending claims of this application. In this application, the claimed invention is directed to a scheduling system for broadcasting supplemental multimedia information to coincide with both analog and digital audio broadcasts. (See specification, pages 5-7). The scheduling information is set by the broadcaster not the user. (See specification, page 14, lines 7-17). The scheduling information does not affect the digital audio being broadcast or received by the listener. It affects the supplemental data that is broadcast.

In contrast to the elements recited in independent claims 1, 29-31, 68, 96-99 and 127-129, Foladare does not disclose a method for making the determination of types of data to be transmitted based on previous selections by the listener, or independent of that which was previously selected, as stated in the specification, and scheduling the broadcast of such data. (See, specification, page 10, lines 20-25 through page 11, lines 1-15). Foladare merely discloses a radio subscription system which allows the subscriber to select a playlist of audio data from a closed content resource. (See, Foldare et al. claim 1 and col. 1, lines 66-67, col. 2, lines 1-7). The present application, however, discloses a method, apparatus, and computer readable medium encoded with said method for “coordinating supplemental data transmissions” from an infinite resource of broadcasters. (See specification). The present application allows the listener to make selections from various resources and coordinates the transmission of this data selected, *inter alia*, “the time at which the data should be broadcast, the length of time it should be broadcast for, and the frequency with which it should be broadcast.” (See, specification, page 13, lines 4-6).

Applicant submits that independent claims 1, 29-31, 68, 96-99 and 127-129, are patentably distinct from the cited reference for at least this reason. Further, Applicant submits

that claims 2, 6-17, 19, 24, 25, 27, 69, 72, 76-87, 91, 92, 94, 95, 100 and 104-115; which are directly or indirectly dependent from independent claims 1, 29-31, 68, 96-99 are also patentably distinct from the cited reference for at least a similar reason. Therefore, Applicant respectfully requests withdrawal of this ground of rejection.

Claim Rejection – 35 U.S.C. § 103(a)

Dependent claims 3-5, 18, 20-23, 26, 70-75, 88-90, 93, 101-103, 116, 118-121 and 124 have been rejected under 35 U.S.C. § 103(a), as being allegedly obvious over Foadare et al. (US005819160A). Applicant submits that claims 3-5, 18, 20-23 and 26 (directly or indirectly dependent on independent claim 1) claims 70-75, 88-90 and 93 (directly or indirectly dependent on independent claim 68) and claims 101-103, 116, 118-121 and 124 (directly or indirectly dependent on independent claim 99) are patentably distinct from the cited reference for the reasons stated above. Accordingly, Applicant requests withdrawal of this ground of rejection.

CONCLUSION

Applicant respectfully requests reconsideration in view of the foregoing remarks, respectfully submits that the claims as presented herein are allowable over the art of record and that the application is in condition for allowance, which action is earnestly solicited.

The Examiner is invited to contact the undersigned at the telephone number below, should that in anyway facilitate prosecution.

Applicant believes that the attached extension of time is sufficient for the timely submission of this paper. However, should any supplemental extension of time be necessary to render this filing timely, such extension is hereby petitioned and the Commissioner is hereby authorized to charge any additional fees which may be required for this paper, or credit any overpayment, to Deposit Account No. 13-4500, Order No. 4232-4002.

Respectfully submitted,
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Dated: March 17, 2006

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